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CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1369**

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**Introduced by Assembly Member Pavley**  
**(Coauthors: Assembly Members Calderon, Hancock, Koretz,**  
**Maze, Mullin, and Vargas)**  
**(Coauthors: Senators Figueroa, Machado, Romero, and Soto)**

February 21, 2003

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An act to add Section ~~1569.6~~ 1569.7 to the Health and Safety Code, relating to residential care facilities for the elderly.

LEGISLATIVE COUNSEL'S DIGEST

AB 1369, as amended, Pavley. Residential care facilities for the elderly: automatic external defibrillators.

Existing law authorizes the Emergency Medical Services Authority to establish minimum standards for the training and use of automatic external defibrillators by individuals not otherwise licensed or certified for the use of the device.

Under existing law, the State Department of Social Services licenses and regulates residential care facilities for the elderly.

A violation of provisions relating to residential care facilities for the elderly is a crime.

This bill would, commencing July 1, 2005, require every residential care facility for the elderly, where the facility's licensed bed capacity exceeds 60 persons, to ~~purchase, use in accordance with law, and train personnel in the use of,~~ automatic external defibrillators, *in accordance with law*. This bill would also provide that, except as prescribed, when an employee of a residential care facility for the elderly uses or attempts to use an automatic external defibrillator to render emergency care or treatment in a manner consistent with the bill, neither the employee nor the board of directors of that facility is liable for civil damages resulting from any acts or omissions in rendering the emergency care or treatment.

This bill would provide that, ~~if a residential care facility for the elderly~~ *each resident, whether or not he or she* executes an advance health care directive, including, but not limited to, a request to forego resuscitative measures or a do-not-resuscitate order, ~~the resident~~ shall indicate separately, in writing ~~by using a "Do Not AED" order,~~ if he or she does not want facility employees to use an automatic external defibrillator if he or she needs emergency care or treatment. The bill would also establish procedures to be used by *residential care* facilities *for the elderly* with respect to the presentation and maintenance of ~~"Do Not AED" orders~~ *these written statements*, and would require facilities to provide residents with additional specified information.

Because this bill would create a new crime, it would impose new duties upon local law enforcement agencies, thus constituting a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section ~~1569.6~~ 1569.7 is added to the Health
- 2 and Safety Code, to read:

~~1569.6.—~~

1569.7. (a) Commencing July 1, 2005, every residential care facility for the elderly as defined in Section 1569.2 with a licensed bed capacity that exceeds 60 persons shall ~~purchase, use in accordance with law, and train personnel in the use of,~~ an automatic external defibrillator, *in accordance with law*, pursuant to Section 1797.190 and paragraphs (1) and (2) of subdivision (b) of Section 1797.196.

(b) An employee of a residential care facility for the elderly who uses, or attempts to use, an automatic external defibrillator consistent with the terms of this section to render emergency care or treatment is not liable for civil damages resulting from any acts or omissions in rendering the emergency care or treatment, except as provided in subdivision (d).

(c) When an employee uses, or attempts to use, an automatic external defibrillator consistent with the requirements of this section to render emergency care or treatment, the members of the board of directors of the facility shall not be liable for civil damages resulting from any act or omission in rendering the emergency care or treatment, except as provided in subdivision (d).

(d) Subdivision (b) does not apply in the case of personal injury or wrongful death that results from gross negligence or willful or wanton misconduct on the part of the person who uses an automatic external defibrillator to render emergency care or treatment.

~~(e) (1) This section may not be construed to permit the use of an automatic external defibrillator contrary to an advance health care directive, including, but not limited to, a request to forego resuscitative measures or a do not resuscitate order.~~

~~(2) If a resident executes~~

(e) Each resident, whether or not he or she has executed an advance health care directive, including, but not limited to, a request to forego resuscitative measures or a do-not-resuscitate order, the resident shall indicate separately, in writing by executing a “Do Not AED” order, if he or she does not want facility employees to use an automatic external defibrillator if he or she needs emergency care or treatment. Notwithstanding any advance health care directive to the contrary, if a resident has executed a “Do Not AED” order, employees trained in the use of automatic

1 ~~external defibrillators may~~ defibrillator. *If a resident has indicated*  
2 *in writing that he or she does not want facility employees to use an*  
3 *automatic external defibrillator if he or she needs emergency care*  
4 *or treatment, facility employees shall withhold the use of an*  
5 *automatic external defibrillator.*

6 ~~(f) For residents who have not completed an advance health~~  
7 ~~care directive, as specified in this section, a residential care facility~~  
8 ~~for the elderly shall present a “Do Not AED” order to residents~~  
9 ~~or their responsible parties, which will allow residents to~~  
10 ~~document their wishes on the use of the device.~~

11 ~~(g)–~~

12 (f) (1) In order to implement this section, residential care  
13 facilities for the elderly shall establish policies or procedures, or  
14 appropriately amend their current policies and procedures, to  
15 address the presentation, processing, maintenance, revision, and  
16 information-dissemination of ~~“Do Not AED” orders~~ *statements*  
17 *indicating that a resident does not want facility employees to use*  
18 *an automatic external defibrillator if the resident needs emergency*  
19 *care or treatment, and to the extent possible, make these processes*  
20 *consistent with current systems for advance health care directives*  
21 *pursuant to Section 1569.156.*

22 (2) Lists of those residents who have ~~completed a “Do Not~~  
23 ~~AED” order~~ *indicated in writing that they do not want facility*  
24 *employees to use an automatic external defibrillator* shall be made  
25 available to employees trained in the use of the automatic external  
26 defibrillator in the facility, and a copy of the list shall be  
27 maintained with ~~the each~~ *each* automatic external defibrillator unit, ~~or~~  
28 ~~units if more than one is maintained in the facility. “Do Not AED”~~  
29 ~~orders~~ *Statements indicating that a resident does not want facility*  
30 *employees to use an automatic external defibrillator* shall be  
31 maintained in the resident file, with copies in other locations where  
32 advance health care directives are also stored and maintained in the  
33 facility.

34 ~~(3) “Do Not AED” orders for new residents shall be presented~~  
35 ~~and discussed upon admission. The presentation and discussion of~~  
36 ~~these orders may be conducted at the time that advance health care~~  
37 ~~directives would also be presented and discussed with the~~  
38 ~~prospective resident.~~

39 ~~(4)–~~

1 ~~(3) Prior to implementing this section July 1, 2005, the facility~~  
2 ~~shall inform current residents or their responsible parties about~~  
3 ~~automatic external defibrillators and “Do Not AED” orders.~~  
4 ~~Information the resident’s option to state in writing that he or she~~  
5 ~~does not want facility employees to use an automatic external~~  
6 ~~defibrillator if the resident needs emergency care or treatment.~~  
7 ~~New residents or their responsible parties shall be informed upon~~  
8 ~~admission about automatic external defibrillators and the~~  
9 ~~resident’s option to state in writing that he or she does not want~~  
10 ~~facility employees to use an automatic external defibrillator if the~~  
11 ~~resident needs emergency care or treatment.~~

12 ~~(4) Information about automatic external defibrillators~~  
13 ~~provided to residents shall include information consistent with that~~  
14 ~~published and distributed by the American Heart Association and~~  
15 ~~the American Red Cross on automatic external defibrillators.~~

16 ~~(5) The facilities shall provide information, when possible and~~  
17 ~~appropriate, to residents or their responsible parties asking if a~~  
18 ~~“Do Not AED” order about automatic external defibrillators and~~  
19 ~~shall ask if a statement indicating that the resident does not want~~  
20 ~~facility employees to use an automatic external defibrillator~~  
21 ~~should be readdressed or changed, changed, or initiated, at the~~  
22 ~~wishes and discretion of the resident or their responsible parties.~~  
23 ~~This shall be done in a method to be determined by the policies and~~  
24 ~~procedures and at a minimum of once every two years.~~

25 ~~(6) Issues of implementation not addressed in this section shall~~  
26 ~~be subject to the policies and procedures of the facility, to the~~  
27 ~~extent that they are consistent with existing law and regulations.~~

28 ~~(h)~~

29 ~~(6) If a resident of a residential care facility for the elderly~~  
30 ~~begins receiving hospice services from a licensed hospice, as~~  
31 ~~defined in Section 1339.31, the residential care facility for the~~  
32 ~~elderly shall provide information to that resident or their~~  
33 ~~responsible party about automatic external defibrillators and ask~~  
34 ~~if a statement indicating that the resident does not want facility~~  
35 ~~employees to use an automatic external defibrillator should be~~  
36 ~~readdressed, changed, or initiated at the wishes and discretion of~~  
37 ~~the resident or their responsible parties.~~

38 ~~(g) The department may adopt emergency regulations to~~  
39 ~~implement this section in accordance with the rulemaking~~  
40 ~~provisions of the Administrative Procedure Act (Chapter 3.5~~

1 (commencing with Section 11340) of Part 1 of Division 3 of Title  
2 2 of the Government Code). The initial adoption of emergency  
3 regulations and one readoption of the initial regulations shall be  
4 deemed to be an emergency and necessary for the immediate  
5 preservation of the public peace, health and safety, or general  
6 welfare. Initial emergency regulations and the first readoption of  
7 those regulations shall be exempt from review by the Office of  
8 Administrative Law. The initial emergency regulations and the  
9 first readoption of those regulations authorized by this subdivision  
10 shall be submitted to the Office of Administrative Law for filing  
11 with the Secretary of State and publication in the California Code  
12 of Regulations and each shall remain in effect for no more than 180  
13 days.

14 ~~(i) Nothing in this section shall apply to a resident receiving~~  
15 ~~hospice services from a licensed hospice, as defined in Section~~  
16 ~~1339.31, who has completed an advance health care directive, as~~  
17 ~~defined in Section 4605 of the Probate Code, or a request to forego~~  
18 ~~resuscitative measures, as defined in Section 4780 of the Probate~~  
19 ~~Code.~~

20 SEC. 2. No reimbursement is required by this act pursuant to  
21 Section 6 of Article XIII B of the California Constitution because  
22 the only costs that may be incurred by a local agency or school  
23 district will be incurred because this act creates a new crime or  
24 infraction, eliminates a crime or infraction, or changes the penalty  
25 for a crime or infraction, within the meaning of Section 17556 of  
26 the Government Code, or changes the definition of a crime within  
27 the meaning of Section 6 of Article XIII B of the California  
28 Constitution.

